

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10991-NG

KENNETH M. WHITE and)
MANDY DIAS)
)
Plaintiff)
)
vs.)
)
ERIC MADONNA and CITY OF)
FALL RIVER,)
)
Defendants)

**PLAINTIFFS' ASSENTED-TO MOTION TO VOID STAY AND
TO RE-ESTABLISH A SCHEDULING ORDER**

Plaintiffs Kenneth M. White and Mandy Dias hereby move to void the stay in the proceedings and to re-establish the scheduling order in this case pursuant to Local Rules 7.1(B)(1) and 16.1(G).

In support of this motion, Plaintiffs state:

- (1) On June 30, 2005, the Court allowed Defendants' motion to stay proceedings in this case because Defendant Eric Madonna's was called from reserve status in the U.S. Army to active military duty.
- (2) Defendants' motion to stay was supported by Rhode Island National Guard Colonel Virginia G. Barham who testified by Affidavit that Defendant Eric Madonna was mobilized on January 4, 2005 for a term of deployment of 545 days.
- (3) The 545 days period has expired.

(4) On information and belief, Defendant Madonna has been discharged from active military duty and has returned to his residence in Massachusetts.

(5) There is no just purpose in continuing to stay the proceedings.

(6) The Court issued its last Scheduling Order on February 28, 2005, which now needs to be modified.

(7) Defendants assent to the motion.

(8) A Certificate of Compliance with Local Rule 7.1(A)(2) is attached.

WHEREFORE, Plaintiffs propose the following schedule for litigation events:

1. Completion of Fact Discovery and Depositions November 1, 2006
2. Plaintiffs' Disclosure of Experts December 1, 2006
3. Defendants' Disclosure of Experts January 15, 2006
4. Completion of Expert Depositions February 15, 2006
5. Deadline for Filing Dispositive Motions March 31, 2007
6. Pre-Trial Conference May 1, 2007

Plaintiffs do not consent to trial by Magistrate.

Respectfully Submitted,

Plaintiff Kenneth M. White,
By His Attorneys,

Plaintiff Mandy Dias,
By Her Attorney,

BEAUREGARD, BURKE & FRANCO

/s/ James Hodgson

PHILIP N. BEAUREGARD BBO#034780
JAMES HODGSON BBO#656231
P.O.Box 952
New Bedford, MA 02741-0952
(508) 993-0333

/s/ Brian Corey, Jr

BRIAN COREY, JR. BBO#632973
1041 Main Road
Westport, MA 02790
(508) 636-8861

Assented to:

/s/ Gary P. Howayeck

GARY P. HOWAYECK BBO#630053
Assistant Corporation Counsel
City of Fall River
One Government Center
Fall River, MA 02711
(508) 324-2650

Dated: August 3, 2006

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LOCAL RULE 7.1(A)(2) CERTIFICATE OF COMPLAINE

I, JAMES HODGSON, hereby certify that, pursuant to Local Rule 7.1(A)(2), I telephoned Attorney Gary P. Howayeck, as attorney for defendants Eric Madonna and the City of Fall River, on July 28 and August 3, 2006 in a good faith effort to clarify and agree on a revised scheduling order in this case. Attorney Howayeck indicated his assent to the instant motion.

/s/ James Hodgson

Dated: August 3, 2006